IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8601 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CROMA ELECTRONICS PVT LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8601 of 1989

MR SV RAJU for Petitioner No. 1

MR SN THAKKAR for Petitioner No. 1

MR DIPEN DESAI, Ld. AGP for Respondent No. 1

MR SUNIL S JOSHI for Respondent No. 2

RULE SERVED for Respondent No. 2

UNSERVED-EXPIRED (R) for Respondent No. 3-4

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 23/12/2004

ORAL JUDGEMENT

When the matter is taken up for final hearing the learned Counsel appearing for the petitioner, Mr.Thakkar as well as Mr.Desai, learned AGP for the respondent State, Mr.Sunil Joshi, learned Counsel for respondent No.2 and Mr.J.K.Shah, learned Counsel for Respondents No.3/1 to 3/9 agree on the point that this petition is covered by the decision of this Court dated 13.2.1991 in SCA No.5508/1989 and others and, therefore, it has been prayed that similar order as passed in SCA No.5508/1989 and others be passed in the present petition also. Mr.Thakkar, learned Counsel for the petitioner places on record a copy of the order dated 13.2.1991 passed in SCA No.5508/1989 and allied matters.

When the matter was considered for admission on 16.3.1990 following order was passed:

"Rule.

To be heard with Spl. C.A. Nos.5508/89 to 5512/89.

Ad-interim relief in terms of para 9(B)."

It has been submitted by the learned Counsel appearing for the parties that the present petition was left out as the papers could not be traced.

Even in the present petition also the order under challenge is the order passed by the State Government in exercise of the revisional jurisdiction whereby the order passed by Taluka Development Officer qua granting permission for N.A. permission is set aside. In the decision of this Court dated 13.2.1991 in SCA No.5508/1989 at para 2 it has been observed as under:

"2. In the case of Yashkamal Builders vs. State of Gujarat, reported in 1989(1) GLH page 177, this Court (Coram: R.C. Mankad, J.) has held that Taluka Development Officer, Halol had power to grant permission for non-agricultural use of land under section 65 of the Bombay Land Revenue Code. It is also held by the Court that State Government could not exercise revisional powers after lapse of more than 4.1/2 years to cancel or set aside the permission for non-agricultural use, granted by the Taluka Development Officer. Mr.Trivedi appearing for the respondents is heard in the matter. It is

clear that the facts and questions involved in these petitions are identical with those which were involved in the aforesaid decision and in that view of the matter, it is not necessary to set out details of the facts and questions involved in this petition, more particularly, when both the parties have agreed that the facts and questions are similar. In view of this, following the decisions referred to above, these petitions require to be allowed. In the result, the petitions are allowed. The impugned orders setting aside and/or cancelling the orders of Taluka Development Officer, Halol granting permission for non-agricultural use are quashed and set aside and the order passed by the Taluka Development Officer, Halol granting permission for non-agricultural use of land under section 65 of the Code is restored. Rule made absolute accordingly with no order as to costs."

In the present case also the power is exercised after more than four-and-a-half years and, therefore, considering the facts and circumstances and in view of the reasons recorded in the order dated 13.2.1989 passed by this Court in SCA 5508/1989 the impugned order passed by the State Government cancelling the orders passed by the Taluka Development Officer granting permission for non-agricultural use is quashed and set aside and the order passed by the Taluka Development Officer granting permission for non-agricultural use of land is restored. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

23.12.2004 (Jayant Patel, J.)

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